IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITIN NO.8094 OF 2006

Devappa S. Dhangar & Anr. ....Petitioners
V/s.
Ramu B. Dhangar & Ors. ....Respondents

Mr.Vijay Killedar for the Petitioners.
Mr.P.M. Arjunwadkar for Respondent No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD JANUARY, 2007.

P.C. :

1. Rule. Rule returnable and heard forthwith.

2. The issues have been framed in common between the Plaintiff and all Defendants. Even assuming that the Plaintiff had not furnished the particulars in respect of the issue pertaining to the Bombay Prevention of Fragmentation & Consolidation of Holding Act, the details admittedly are contained in the written statement of Defendant No.3. Even the question of jurisdiction on the basis of the said Act could even be raised without a pleading at it is purely a question of law. The defence of limitation has also been pleaded. Estoppel has been pleaded. Basis of pleading is also furnished.

3. In the circumstances, the impugned order is set-aside and the issues at Exhibit "D" to the Petition shall also be framed.

4. The rule is accordingly made absolute.